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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 10282004

Application Number: 10/070,824
Filing Date: March 11, 2002
Appellant(s): BRETSCHNEIDER ET AL.

Jacob Eisenberg
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 7th 2004

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 19-27 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,227,378	Jones et al.	5-2001

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the Appellant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the Appellant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 19 – 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Jones et al. The reference discloses an arrangement for organizing flat items of mail (col. 1, lines 5+), in accordance with a definable sequence of delivery points assigned to recipient addresses (col. 1, lines 20+), into a plurality of depositing receptacles (12) into which in each case a plurality of items of mail can be destacked in organized fashion, having a reading arrangement for determining direct or indirect address information located on the items of mail separated by means of separating arrangement (col. 1, lines 55+), having a plurality of containers (4) which circulate on at least one conveying arrangement (6) and are intended for receiving, for transporting and for discharging in a controllable manner in each case one item of mail into the depositing receptacles in a number of circulating cycles (col. 2, lines 38+), and having a control arrangement which, with knowledge of the address information of all the items of mail located in the containers, controls the discharge of the items of mail from the containers to the depositing

receptacles such that the sequence of the items of mail in a definable order of the depositing receptacles corresponds to the sequence of the delivery points assigned to the addresses (col. 3, lines 44+), the order of the items of mail in each depositing receptacle corresponding to the sequence of the delivery points assigned to the addresses of the items of mail located in the respective depositing receptacle (col. 1, lines 24+), characterized in that the depositing receptacles are arranged along the conveying arrangement (Fig. 1), and in that the depositing receptacles are subdivided into two more or less equally sized groups and, in the case of organizing sorting runs proceeding one after the other, the items of mail of different address areas are alternately sorted only into one of the two depositing-receptacle groups (col. 5, lines 64+, col. 3, lines 64+ and col. 6, lines 33+).

With regards to claim 20, the reference further discloses that the items of mail of a current address area can be loaded into empty circulating containers while items of mail of the preceding address area are still located in containers (col. 5, lines 64+).

With regards to claim 21, the reference further discloses a loading location of the containers can be moved along the circulating containers in a controlled manner, within defined limits, such that the item of mail which is to be loaded in each case can be loaded into an empty container located in a defined movement range of the loading location (col. 2, lines 58+).

With regards to claim 22, the reference further discloses once non-sorted items of mail have been loaded into empty containers, pre-sorted items of mail for the same address area can be loaded into still empty containers or containers which are just becoming empty as a result of the non-sorted items of mail being discharged to the depositing receptacles, the delivery points being assigned place numbers in accordance with a mail defined order in the respective

depositing receptacles, and the pre-sorting operation taking place such that the items of mail which are assigned to the delivery points with lower place numbers can be separated before the items of mail with higher assigned place numbers (col. 1, lines 10+ and col. 5, lines 18+).

With regards to claim 23, the reference further discloses the non-sorted items of mail of a current address area can be loaded into empty circulating containers while items of mail of a preceding address area are still located in containers (col. 5, lines 64+).

With regards to claim 24, the reference further discloses a process for organizing flat items of mail (col. 1, lines 5+), in accordance with a definable sequence of delivery points assigned to the recipient addresses (col. 1, lines 20+), into a plurality of depositing receptacles (12) into which in each case a plurality of items of mail are destacked in organized fashion, in the case of which direct or indirect address information located on the separated items of mail is read (col. 1, lines 55+), in each case one item of mail is received into one of a plurality of containers (4) circulating on at least one conveying arrangement (6), is transported therein and is discharged in a controlled manner into the depositing receptacles in a number of circulating cycles, it being the case that, with knowledge of the address information of all the items of mail located in the containers (col. 3, lines 47+), said items of mail are discharged from the containers to the depositing receptacles such that the sequence of the items of mail in a definable order of the depositing receptacles corresponds to the sequence of the delivery points assigned to the addresses (col. 1, lines 22+), and it being the case that the order of the items mail in each depositing receptacle corresponds to the sequence of the delivery points assigned to the addresses of the items of mail located in the respective depositing receptacle, characterized in that the depositing receptacles are arranged along the conveying arrangement and are subdivided

into two more or less equally sized groups and, in the case of organizing sorting runs proceeding one after the other, the items of mail of different address areas are alternately sorted only into one of two depositing-receptacle groups (col. 5, lines 64+, col. 3, lines 64+ and col. 6, lines 33+).

With regards to claim 25, the reference further discloses the items of mail of a current address area are loaded into empty circulating containers while items of mail of a preceding address area are still located in containers (col. 5, lines 64+).

With regards to claim 26, the reference further discloses once non-sorted items of mail have been loaded into empty containers, pre-sorted items of mail for a same address area are loaded into still empty containers or containers which are just becoming empty as a result of the non-sorted items of mail being discharged to the depositing receptacles, the delivery points being assigned place numbers in accordance with their defined order in the respective depositing receptacles, and the pre-sorting operation taking place such that the items of mail which are assigned to the delivery points with lower place numbers can be separated before the items of mail with higher assigned place numbers (col. 1, lines 10+ and col. 5, lines 18+).

With regards to claim 27, the reference further discloses the non-sorted items of mail of a current address area are loaded into empty circulating containers while items of mail of a preceding address area are still located in containers (col. 5, lines 64+).

(11) Response to Argument

Appellant's discussion of the applied reference and the differences between the reference and the current application is noted. Examiner concedes that the reference does have a different motivation, but contends that this does not preclude the reference from being applied and that the claim language is met by the reference. Both the reference and the application are mail sorters.

Mail sorters take an incoming stream of mail and sort the mail into predetermined groups. The groups are determined based upon the level of the sort desired (col. 1, lines 10+). Appellant's invention is specifically directed to sorting on a local level to prepare groups of mail for individual mail carriers. The reference expressly discloses this carrier-level sort as one of many options (col. 1, lines 22+).

In a typical sorting situation a first mail carrier, Alice, deposits her mail into the sorter. As this mail is being processed, a second mail carrier, Bob, deposits his mail into the sorter. According to the reference, as Alice's mail is processed, mail pieces will be loaded into the storage receptacles, the control system will begin designate a group of depositing receptacles for Alice, and Alice's mail will begin to offload. Before this is finished, however, Bob's mail will be loading into the storage receptacles, the control system will begin designate a group of depositing receptacles for Bob, and Bob's mail will begin to offload (col. 5, lines 45+).

Appellant compares the reference with the present invention and points to fundamental differences. Examiner will address these in turn. First, Appellant states that in the present invention, mail item "groups" are predefined and delineate how mail items are initially received, and that in the reference, Jones et al., mail item groups are not predefined, but instead, dynamic and subject to change. Examiner is not clear what "mail item 'groups'" is referring to, as this language is not present in the claims. Additionally, the claims do not have any limitation requiring the groups be "predefined and delineate how mail items are initially received". Assuming "groups" is referring to the deposit receptacle group, Appellant's contention that predefined groups and dynamic groups are mutually exclusive situations is incorrect. Referring to the above example, it seems the Appellant is arguing that the present invention will sort Alice

and Bob's routes and only Alice and Bob's routes, (i.e. that those predefined groups never can change). The reference will sort Alice and Bob's routes. These routes are predefined groups, as the computer control knows these two routes and what mail goes where. After Alice is finished, however, the apparatus is able to start processing a third predefined group (Charlie's)—the dynamic aspect of the groupings.

Second, Appellant states that in the present invention mail groups are sorted in sequence of mail item group receipt by delivery order, whereas with the reference, mail items are not sorted by delivery order sequence. This is because the reference, according to the Appellant, teaches that mail is received en-masse making sequential group handling impossible and mail is sorted by output receptacle volume. The reference expressly discloses the capability to sort to a wide range of levels, from outward destination sorting for newly received mail items, to delivery level sort for items of mail received at the local post office (col. 1, lines 14+). Mail is not sorted by output receptacle volume, as the Appellant contends, but by destination.

Third, Appellant states that in the present invention sorting throughput is effected via the division of output receptacles into two sets, whereas with the reference, output receptacles are not divided into two substantially equal sets, but rather one mail group at a time is assigned to all the output receptacles. The Appellant's statement that one mail group at a time is assigned to all the output receptacles is incorrect. Appellant's assertion is based on the reference teaching the ability to dynamically assign groups, according to a footnote in Appellant's brief. The reference expressly teaches assigning different groups to different output receptacles (col. 5, lines 45+). Again, referring to the above example, the reference teaches the ability to sort Alice and Bob's delivery routes. In this situation, the output receptacles would inherently be divided into two

groups as the sorter processes the mail. As delivery routes are generally about the same size, it would be expected that these two groups would be more or less equally sized groups.

Fourth, Appellant states that in the present invention focus is on increasing throughput, whereas with the reference, focus is on maximizing use of output receptacle holding volume. Appellant's contention is incorrect. The reference expressly teaches a focus on increasing throughput (col. 6, lines 2+). Furthermore, the reference expressly points to an example where output receptacle holding volume maximization is sacrificed to maintain an acceptable mail processing rate (col. 6, lines 2+). Additionally, the focus is on increasing throughput, is not a limitation in any of the claims.

In an analysis of the rejection, Appellant contends that the reference fails to disclose each and every limitation and specifically cites three portions of the independent claims 19 and 24:

i. "...the depositing receptacles are subdivided into two more or less equally-sized groups ..."

ii. "... in the case of organizing sorting runs proceeding one after the other ..."

iii "...the items of mail of different address areas are alternately sorted only into one of the two depositing-receptacle groups ...".

Claim 19 is an apparatus claim and the language: "the depositing receptacles are subdivided into two more or less equally-sized groups in the case of organizing sorting runs proceeding one after the other the items of mail of different address areas are alternately sorted only into one of the two depositing-receptacle groups" are method limitations. Therefore, the claim is anticipated if the reference is capable of performing the claimed method.

In addressing the specifically cited claim language, the Examiner contends that the limitations are met. The reference discloses the depositing receptacles are subdivided into two more or less equally-sized groups. As understood from the specification, this subdivision of depositing receptacles, is not a physical barrier but rather an invisible division of the receptacles performed by the computer controller based upon the incoming stream of mail. In the above example, as the mail is offloaded from the containers to the depositing receptacles, some of the receptacles will be designated to Alice and some of the receptacles will be designated to Bob. The reference discloses the case of organizing sort runs proceeding one after another (col. 5, lines 64+). The reference discloses the items of mail of different address areas are alternately sorted only into one of the two depositing-receptacle groups. Again, in the above example, Alice's mail will only be deposited in one of those receptacles designated as Alice's receptacles group and Bob's mail will only be deposited in one of those receptacles designated as Bob's receptacles group. Alice's mail will not be deposited in Bob's group and Bob's mail will not be deposited in Alice's group. This inherently occurs as the mail is sorted, as Alice and Bob cover different address areas.

Additionally, the language "the depositing receptacles are subdivided into two more or less equally-sized groups" of claims 19 and 24 should be changed to "the depositing receptacles are subdivided into two, more or less equally-sized, groups" to alleviate any indefiniteness concerns. The language is somewhat awkward and unclear as is.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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October 29, 2004

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